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6
7 **BEFORE THE**
BOARD OF REGISTERED NURSING
8 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

9
10 In the Matter of the Accusation Against:

Case No. *2011-483*

11 **MARIA ELENA GONZALES aka MARIA**
I. GONZALES

A C C U S A T I O N

12 **PO Box 571664**
13 **Tarzana, CA 91357**

14 **Registered Nurse License No. 513399**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about July 27, 1995 the Board issued Registered Nurse License Number
22 513399 to Maria Elena Gonzales ("Respondent"). The Registered Nurse License has been active
23 at all times relevant herein and expires on September 30, 2012, unless renewed.

24 **JURISDICTION**

25 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
26 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
27 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
28 the Nursing Practice Act.

4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Section 2811 subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

5. Section 118 subdivision (b) of the Code grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

STATUTORY PROVISIONS

6. Section 2761 of the Code provides grounds for disciplinary action:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

• • •

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

7. Section 2762 of the Code provides grounds for disciplinary action relating to alcohol or substance abuse:

1 "In addition to other acts constituting unprofessional conduct within the
2 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
3 person licensed under this chapter to do any of the following:

4 (a) Obtain or possess in violation of law, or prescribe, or except as
5 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
6 himself or herself, or furnish or administer to another, any controlled substance as
7 defined in Division 10 (commencing with Section 11000) of the Health and Safety
8 Code or any dangerous drug or dangerous device as defined in Section 4022.

9 (b) Use any controlled substance as defined in Division 10 (commencing
10 with Section 11000) of the Health and Safety Code, or any dangerous drug or
11 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
12 in a manner dangerous or injurious to himself or herself, any other person, or the
13 public or to the extent that such use impairs his or her ability to conduct with safety to
14 the public the practice authorized by his or her license."

15 REGULATORY PROVISIONS

16 8. Section 1442 of Title 16 of the California Code of Regulations defines gross
17 negligence as "an extreme departure from the standard of care which, under similar
18 circumstances, would have ordinarily been exercised by a competent registered nurse. Such an
19 extreme departure means the repeated failure to provide nursing care as required or failure to
20 provide care or to exercise ordinary precaution in a single situation which the nurse knew, or
21 should have known, could have jeopardized the client's health or life."

22 COST RECOVERY

23 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

27 FIRST CAUSE FOR DISCIPLINE

28 (Disciplinary Action by the Nebraska Department of Health and Human Services and the
Iowa Board of Nursing)

10 Respondent is subject to discipline pursuant to Section 2761 subdivision (a)(4) of the
11 Code because she was disciplined by the Nebraska Department of Health and Human Services
12 ("Nebraska Department") and Iowa Board of Nursing ("Iowa Board"), as follows:

13 11. On or about September 8, 2005 in the disciplinary action entitled *State of Nebraska v.*
14 *Maria E. Gonzales, R.N.*, the Nebraska Department ordered Respondent's nursing license

1 revoked for violating a number of Nebraska laws. The Nebraska Department made the following
2 findings of fact and conclusions of law:

- 3 a. On or about March 14, 2000, Respondent posed as a nurse from a local physician's
4 office and fraudulently attempted to obtain Lorazepam, an anti-anxiety medication
5 listed as a schedule IV controlled substance, from a pharmacy.
- 6 b. On or about December 4, 2002, Respondent was convicted in Douglas County,
7 Nebraska of four misdemeanor convictions for driving under the influence, refusing to
8 submit to a drunk driving test, obstruction of administration of law, and disorderly
9 conduct. For these offenses, Respondent was sentenced to a year's probation, ordered
10 to abstain from using alcohol and to participate in treatment for substance abuse.
- 11 c. On or about April 29, 2004, Respondent was convicted in Douglas County, Nebraska
12 of attempted theft by deception, a felony. She was subsequently sentenced to three
13 years' probation under the conditions that she refrain from the use of alcohol or illegal
14 drugs, refrain from unlawful conduct, and pay restitution to the victim in the amount
15 of \$1,547.70.
- 16 d. On or about August 10, 2004, while still on probation, Respondent was convicted in
17 Douglas County, Nebraska of misdemeanor shoplifting.
- 18 e. On or about August 30, 2004, Respondent applied to renew her nursing license in
19 Nebraska and indicated on her application that she had not been convicted of any
20 misdemeanors or felonies.
- 21 f. On or about October 3, 2004, while still on probation, Respondent was arrested at an
22 Iowa casino and charged with assault on a police officer, assault and battery,
23 interference with official acts, and disorderly conduct. After being placed on arrest,
24 the Defendant said to the officer, "I love when police officers are shot in the head, and
25 more should be shot! That makes me very happy when officers are killed! I clap my
26 hands when I hear it!" And, "I hope you get shot in the head and go to hell you mother
27 fucker. And if you did, I wouldn't resuscitate you! I hope your family is shot and
28 killed."

1 g. On or about May 24, 2005, while employed as a registered nurse in Nebraska,
2 Respondent administered Ativan, an anti-anxiety medication, to a patient with an
3 apparent head injury from a fall. The patient did not have an order for Ativan and a
4 coworker had cautioned Respondent about giving Ativan to a patient with a head
5 injury.

6 12. As a result of Respondent's criminal convictions, fraudulent statement on her license
7 application, and unprofessional conduct, the Nebraska Department ordered Respondent's license
8 revoked on or about September 8, 2005.

9 13. As a result of Respondent's conduct in Nebraska, and her arrest for assault on a police
10 officer, assault and battery, interference with official acts, and disorderly conduct in Iowa, the
11 Iowa Board ordered Respondent's Iowa nursing license revoked on or about November 22, 2005.

12 14. Under Section 2761 subdivision (a)(4) of the Code, the Nebraska Department's and
13 Iowa Board's disciplinary actions against Respondent for criminal convictions, false statements,
14 and unprofessional conduct are grounds for the California Board to take disciplinary action.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Conviction of a Substantially Related Offense)**

17 15. By committing the acts set forth in paragraphs 10-14, above, Respondent is subject to
18 discipline under Section 2761 subdivision (f) of the Code for her felony conviction for attempted
19 theft by deception, for her misdemeanor convictions for driving under the influence, public
20 intoxication, disorderly conduct, and shoplifting.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 16. By committing the acts set forth in paragraphs 10-14, above, Respondent is subject to
24 discipline under Section 2761 subdivision (a) of the Code on the grounds of unprofessional
25 conduct for administering Ativan to a patient without an order to do so, jeopardizing the patient's
26 health and safety; for multiple incidents of public intoxication and disorderly conduct; for
27 attempted theft by deception; for assault of a police officer; and for attempting to obtain
28 Lorazepam by phoning in a false prescription.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Use of Alcoholic Beverages in a Dangerous or Injurious Manner)**

3 17. By committing the acts set forth in paragraphs 10-14, above, Respondent is subject to
4 discipline under Section 2762 subdivision (b) of the Code for driving under the influence of
5 alcohol and for public intoxication in Nebraska in 2002 and for public intoxication and disorderly
6 conduct, including assaulting an Iowa State Trooper in Iowa in 2004.

7 **PRAYER**

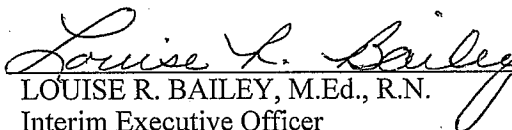
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 513399, issued to Maria
11 Elena Gonzales aka Maria I. Gonzales;

12 2. Ordering Maria Elena Gonzales aka Maria I. Gonzales to pay the Board of Registered
13 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
14 Business and Professions Code Section 125.3; and,

15 3. Taking such other and further action as deemed necessary and proper.

16
17 DATED November 23, 2010


LOUISE R. BAILEY, M.Ed., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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